APPENDIX VI

[*Vide* item VIII (5)]

L. A. Bill No. 32 of 1970.

(As passed by the Assembly)

THE TAMIL NADU REQUISITIONING OF MOTOR VEHICLES BILL, 1970.

A Bill to provide for the requisitioning of motor vehicles for public purposes.

BE it enacted by the Legislature of the State of Tamil Nadu in the Twenty-first Year of the Republic of India as follows :—

1. *Short title and commencement.*—(1) This Act may be called the Tamil Nadu Requisitioning of Motor Vehicles Act, 1970.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

(*a*) "award" means any award of an arbitrator made under section 7 ;

(*b*) "competent authority" means the Commissioner of Police in the City of Madras and the District Collector elsewhere ;

(*c*) "Government" means the State Government ;

(*d*) "motor vehicle" shall have the same meaning as in clause (18) of section 2 of the Motor Vehicles Act, 1939 (Central Act IV of 1939) and includes—

(i) any movable property ancillary or incidental to the maintenance and control of such motor vehicle ; and

(ii) any right in or over such motor vehicle or movable property ;

(*e*) the expression "person interested" in relation to any motor vehicle, includes all persons claiming or entitled to claim, an interest in the compensation payable on account of the requisitioning of that motor vehicle under this Act.

3. *Power to requisition motor vehicle.*—(1) Where the competent authority is of opinion that any motor vehicle is needed, or likely to be needed for any public purpose, and that the motor vehicle should be requisitioned, the competent authority—

(*a*) shall call upon the owner or any other person who may be in possession of the motor vehicle by notice in writing (specifying therein the purpose of the requisition) to show cause, within seven days of the date of the service of such notice on him, why the motor vehicle should not be requisitioned ; and

(*b*) may, by order, direct that neither the owner of the motor vehicle nor any other person shall, without the permission of the competent authority, dispose of, or structurally alter the motor vehicle untill the expiry of such period not exceeding one month as may be specified in the order.

(2) If, after considering the cause, if any, shown by any person interested in the motor vehicle or in possession thereof, the competent authority is satisfied that it is necessary or expedient so to do, it may, by order in writing, requisition the motor vehicle and may make such further order as appear to it to be necessary or expedient in connection with the requisitioning.

(3) Where the competent authority is satisfied that having regard to the immediate need for action, it will not be reasonably practicable to give a notice mentioned in clause (*a*) of sub-section (1), it may, after recording reasons and by order in writing, requisition the motor vehicle without such notice and may make such further orders as appear to it to be necessary or expedient in connection with the requisitioning.

4. *Power to take possession of requisitioned motor vehicle.*—(1) Where any motor vehicle has been requisitioned under section 3, the competent authority may, by notice in writing, order the owner as well as any other person who may be in possession of the motor vehicle to surrender or deliver possession thereof to the competent authority or any person duly authorised by it in this behalf—

(*a*) forthwith in case an order of requisition is passed under sub-section (3) of section 3 ; and

(*b*) in any other case, within fifteen days of the service of the notice.

(2) If any person refuses or fails to comply with an order made under sub-section (1), the competent authority may take possession of the motor vehicle and may, for that purposes, use such force as may be necessary.

5. *Rights over the requisitioned motor vehicle.*—All motor vehicles requisitioned under section 3, shall be used for such purposes as may be mentioned in the notice of requisition.

6. *Release from requisitioning.*—(1) The Government may, at any time, release from requisition any motor vehicle requisitioned under this Act and shall, as far as possible, restore the motor vehicle in as good a condition as it was when possession thereof was taken subject only to the changes caused by reasonable wear and tear and irresistible force ;

Provided that where the purposes for which any requisitioned motor vehicle was being used cease to exist, the Government shall release that motor vehicle, as soon as may be, from requisition.

(2) Where any motor vehicle is to be released from requisition, the competent authority may, after such inquiry, if any, as it may in any case consider necessary to make or cause to be made, specify by order in writing, the person to whom possession of the motor vehicle shall be given and such possession shall, as far as practicable, be given to the person from whom possession was taken at the time of the requisition or to the successors-in-interest of such person.

(3) The delivery of possession of the motor vehicle to the person specified in an order under sub-section (2) shall be a full discharge of the Government from all liability in respect of the motor vehicle, but shall not prejudice any rights in respect of the motor vehicle which any other person may be entitled by due process of law to enforce against the person to whom possession of the motor vehicle is given.

(4) Where any person to whom possession of any requisitioned motor vehicle is to be given is not found and has no agent or other person empowered to accept delivery on his behalf, the competent authority shall cause a notice declaring that the motor vehicle is released from requisition to be affixed on some conspicuous part of the premises in which the motor vehicle was ordinarily kept before the date of requisition and shall also publish the notice in the *Tamil Nadu Government Gazette*.

(5) When a notice referred to in sub-section (4) is published in the *Tamil Nadu Government Gazette*, the motor vehicle specified in such notice shall cease to be subject to requisition on and from the date of such publication and shall be deemed to have been delivered to the person entitled to possession thereof and the Government shall not be liable for any compensation or other claim in respect of the motor vehicle for any period after the said date.

(6) Where any motor vehicle requisitioned under this Act or any material part thereof is wholly destroyed or rendered substantially and permanently unfit for the purpose for which it was requisitioned by reason of fire, earthquake, tempest, flood or violence, of any army or of a mob or other irresistible force the requisition shall, at the option of the Government be void :

Provided that the benefit of this sub-section shall not be available to the Government where the injury to such motor vehicle is caused by any wrongful act or default of the Government.

7. *Principles and method of determining compensation.*—(1) Whether any motor vehicle is requisitioned under this Act, there shall be paid compensation the amount of which shall be determined in the manner and in accordance with the principles hereinafter set out, that is to say,—

(*a*) where the amount of compensation can be fixed by agreement, it shall be paid in accordance with such agreement ;

(*b*) where no such agreement can be reached, the Government shall appoint as arbitrator a person who is, or has been or is qualified for appointment as, a Judge of a High Court ;

(*c*) the Government may, in any particular case, nominate a person having expert knowledge as to the nature of the motor vehicle requisitioned to assist the arbitrator and where such nomination is made, the person to be compensated may also nominate an assessor for the same purpose ;

(*d*) at the commencement of the proceedings before the arbitrator, the Government and the person to be compensated shall state what in their respective opinion is a fair amount of compensation ;

(*e*) the arbitrator shall, after hearing the dispute, make an award determining the amount of compensation which appears to him to be just and specifying the person or persons to whom such compensation shall be paid ; and in making the award, he shall have regard to the circumstances of each case and the provisions of sub-section (2), so far as it is applicable ;

(*f*) where there is any dispute as to the person or persons who are entitled to the compensation, the arbitrator shall decide such dispute and if the arbitrator finds that more persons than one are entitled to compensation, he shall apportion the amount thereof amongst such persons ;

(*g*) nothing in the Arbitration Act, 1940 (Central Act X of 1940), shall apply to arbitrations under this section.

(2) The amount of compensation payable for the requisitioning of any motor vehicle shall consist of,—

(*a*) a recurring payment, in respect of the period of requisition, of a sum equal to the hire charges which would have been payable for the use of the motor vehicle if the motor vehicle had been given on hire for that period ;

(*b*) such sum or sums, if any, as may be found necessary to compensate the person interested for all or any of the following matters, namely :—

(i) pecuniary loss due to requisitioning ; and

(ii) damages (other than normal wear and tear) caused to the motor vehicle during the period of requisition, including the expenses that may have to be incurred for restoring the motor vehicle to the condition in which it was at the time of requisition.

8. *Payment of compensation.*—The amount of compensation payable under an award shall, subject to any rules made under this Act, be paid by the competent authority to the person or persons entitled thereto, in such manner and within such time as may be specified in the award.

9. *Appeals from orders of requisitioning.*—(1) Any person aggrieved by an order of requisition made by the competent authority under section 3 may, within fifteen days from the date of the service of the order, prefer an appeal to the Government :

Provided that the Government may entertain the appeal after the expiry of the said period of fifteen days, if they are satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) On receipt of an appeal under sub-section (1), the Government may, after calling for a report from the competent authority and giving an opportunity to the parties of being heard and after making such further inquiry, if any, as may be necessary, pass such orders as they think fit and the orders of the Government shall be final.

(3) Where an appeal is preferred under sub-section (1), the Government may stay the enforcement of the order of the competent authority for such period and on such conditions as they think fit.

10. *Appeals from awards in respect of compensation.*—Any person aggrieved by an award may, within thirty days from the date of such award, prefer an appeal to the High Court ;

Provided that the High Court may entertain the appeal after the expiry of the period of thirty days, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

11. *Competent authority and arbitrator to have certain powers of civil courts.*—The competent authority and the arbitrator appointed under section 7, while holding an inquiry or, as the case may be, arbitration proceedings under this Act, shall have all the powers of a civil court, while trying a suit, under the Code of Civil Procedure, 1908 (Central Act V of 1908) in respect of the following matters, namely :—

(*a*) summoning and enforcing the attendance of any person and xeamining him on oath ;

(*b*) requiring the discovery and production of any document ;

(*c*) reception of evidence on affidavits ;

(*d*) requisitioning any public record from any court or office ;

(*e*) issuing commissions for examination of witnesses.

12. *Power to obtain information.*—The Government or the competent authority may, with a view to carrying out the purposes of section 3, or section 6 or section 7, by order require any person to furnish to such officer as may be specified in the order, such information in his possession as may be specified relating to any motor vehicle which is requisitioned or intended to be requisitioned under this Act.

13. *Power to enter and inspect.*—The competent authority or any officer empowered in this behalf by such authority by general or special order may enter any premises and inspect any motor vehicle for the purposes of determining whether, and if so, in what manner, an order under this Act should be made in relation to such motor vehicle or with a view to securing compliance with an order made under this Act.

14. *Service of notice and orders.*—(1) Subject to the provisions of this section, and any rules that may be made under this Act, every notice or order issued or made under this Act shall,—

(*a*) in the case of any notice or order of a general nature or affecting a class of persons, be published in the *Tamil Nadu Government Gazette*, and

(*b*) in the case of any notice or order affecting an individual corporation or firm, be served in the manner provided for the service of summons in rule 2 of Order XXIX or rule 3 of Order XXX, as the case may be, in the First Schedule of the Code of Civil Procedure, 1908 (Central Act V of 1908); and

(*c*) in the case of any notice or order affecting an individual person (not being a corporation or firm) be served on such person—

(i) by delivering or tendering it to that person, or

(ii) if it cannot be so delivered or tendered, by delivering or tendering it to any officer of such person or any adult male member of the family of such person, or by affixing a copy thereof on the outer door or on some conspicuous part of the premises in which that person is known to have last resided or carried on business or personally worked for gain, or failing service by these means,

(iii) by post.

(2) Where the ownership of the motor vehicle is in dispute, or where the persons interested in the motor vehicle are not readily traceable and the notice or order cannot be served without undue delay, the notice or order may be served by publishing it in the *Tamil Nadu Government Gazette*, and where possible, by affixing a copy thereof on any conspicuous part of the premises where such motor vehicle was ordinarily kept before the date of the requisition.

15. *Delegation of powers.*—The Government may, by notification, direct that the powers exercisable by them by or under this Act shall, in such circumstances and under such conditions, if any, as may be specified in the notification, be exercisable also by an officer subordinate to the Government.

16. *Protection of action taken in good faith.*—(1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or any order made thereunder.

(2) No suit or other legal proceeding shall lie against the Government or the competent authority for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of this Act or any order made thereunder.

17. *Bar of jurisdiction of civil courts.*—Save as otherwise expressly provided in this Act, no civil court shall have jurisdiction in respect of any matter which the competent authority or arbitrator is empowered by or under this Act to determine, and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

18. *Penalty for offences.*—Whoever contravenes any provision of this Act, or any rule made thereunder, or any order made or direction given under this Act, or obstructs the lawful exercise of any power conferred by or under this Act, shall be punishable with fine, which may extend to one thousand rupees.

19. *Certain persons to be public servants.*—The competent authority, every arbitrator and every officer empowered by the Government or the competent authority, while exercising any power or performing any duty under this Act, shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (Central Act XLV of 1860).

20. *Power to make rules.*—(1) The Government may make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

(*a*) the procedure to be followed by the competent authority in making inquiries under section 3 or section 6 ;

(*b*) the procedure to be followed in arbitration proceedings and appeals under this Act :

(*c*) the principles to be followed in apportioning the cost of proceedings before the arbitrator and on appeal under this Act ;

(*d*) the manner of service of notices and orders ;

(*e*) any other matter which has to be, or may be, prescribed.

(3) All rules made under this Act shall be published in the *Tamil Nadu Government Gazette* and, unless they are expressed to come into force on a particular day, shall come into force on the day on which they are so published.

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(4) Every rule made under this Act shall, as soon as possible after it is made, be placed on the table of both Houses of the Legislature, and if, before the expiry of the session in which it is so placed or the next session, both Houses agree in making any modification in any such rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

21. *Repeal.*—The Tamil Nadu Requisitioning of Movable Property Ordinance, 1970 (Tamil Nadu Ordinance 1 of 1970) is hereby repealed.